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IN THE

Supreme Court of the United States

OCTOBER TERM, 1962

Docket No. 533

EDYTHE L. DYER, *Petitioner*

v.

EDWARD P. MURRAY, as successor trustee under the will of the late JOHN CASSIDY, JANE MURPHY SULLIVAN, ROSELLA MARIE FLYNN, JOAN CASSIDY STETSON, BARBARA ANN CASSIDY and JOHN CASSIDY, *Respondents.*

REPLY BRIEF — to respondents memorandum in opposition.

By: EDYTHE L. DYER,—*pro se*

The respondents with utter disregard decline to answer the issue or the FACTS which cause this case to cry for "good law," with typical lethal innuendo they seek only to score a quick "knock out."

Their reply is inaccurate because:

1—The constitutional issues were raised and are applicable (if for no other reason) than as stated in *Susquehanna Boom Co.* v. *West Branch Boom Co. 3S. Ct. 438, 110 U. S. 57, 28 L. Ed. 69* (hereinafter referred to).

2—The Supreme Judicial Court of *Maine in Laughlin vs. Page, 108 Maine Page 307 at Page 317*, expressed emphatically that the Maine law which has been constant and continuing, should have been the established basis for the decision involved herein.

3—Your petitioner specifically requested the Maine Court, within the appeal period to review the case, and in the plainest pro-se language the constitutional issue was raised. The court's decision was challenged. By necessity and inference the court was compelled by good juris-prudence to consider it, in the petition for review, which accused the court of causing the unconstitutional act.

4—Our attorneys refused to assist in the petition for review, they seemed only interested in quickly obtaining their fees. The attorneys admitted under oath on July 2, 1962, that they "price fixed" among themselves, to obtain legal fees greatly in excess of the final fees allowed by a Superior Court of $197,500.00.

I am not a lawyer and I am not skilled in the intricacies of the law. However I have endeavored not to be-

come involved again, and to review this case on the basis of facts, before this court, because I have no alternative.

It is obvious in my pro se petition (incorporated in the respondents reply brief) to the Supreme Judicial Court of Maine, for review, dated June 5, 1962, and directed to Justice Walter Tapley, Jr., who acted in place of the Chief Justice, (who did not sit, because his son is a member of the respondents law firm) that the whole petition was politely addressed to the Maine Law Court in laymen's verbage with intent to question the court's right to rule as it did, on non-factual assumptions, based upon the court's rewriting a will. If my unprofessional humble effort proved nothing else it challenged the court's questionable authority to disregard facts. By inference, the court had to consider the Constitutional question, both State and Federal.

In my hurried petition for review to the State Court, I did everything I could, I specifically and implicitly raised the issues which obviously deprived me of equal protection of my vested property rights.

The petition shows that this unheard of action by the Maine court, cuts off the true meaning of the Maine Statute and the true meaning of Mr. Cassidy's will.

I was denied the opportunity to further develop or question the court's errors.

Please see Respondents reply brief "Memorandum in Opposition"—for example page (6) (quote):

> "On this point the statute regarding grandchildren is specific."

Also on page (30) thereof quote:

> "The statute fixes its own rules and by these rules we must be governed. *Messer* v. *Jones 88 Me. 353*."

Also see *Cables* vs. *Prescott 67 Maine 583; Doane* v. *Freeman 45 Maine 104 at Page 115*—all of which are confirmed in *Laughlin* vs. *Page, 108 Me. at Page 317.*

There can be no doubt that the constitutional issue was specifically raised! Whereas the petition was denied, the following U. S. cases speak for themselves; (quote):

> "Nothing is better settled than that it is too late to raise a federal question for the first time in a petition for a rehearing, after the final judgment of the state court of last resort, but if, however, the state court actually entertains the petition and decides the federal question, and this appears by the record, the statutory requirement that the right shall be specially set up and denied is complied with." *Susquehanna Boom Co.* v. *West Branch Boom Co. 3S. Ct. 438, 110 UD 28 L. Ed. 69 (see 28 USCA—1257 Page 197, for additional cases).*

The Maine law court assumed that Mr. Cassidy died without children *and* "as though" he died on June 9, 1961, (both assumptions are non-factual). The respondents did not answer these facts.

The decision of the Supreme Judicial Court of Maine in the case, *Matthew Laughlin* vs. *Alonzo Page et als, 108 Me. 317* confirms my contentions and the recognized law of Maine by Justices, Emery, C. J., Spear, Cornish, Kind, Bird and Hadley, J. J., stated in part as follows (quote):

> "Estates tail are estates of inheritance which, *instead of descending to heirs generally,* go to the heirs of heirs of the donees body, which means

> *his lawful issue*, his children, and *through them* to his grandchildren in a direct line, so long as his posterity endures in a regular order and course of descent, and upon the extinction of such issue, the estate determines *(1) Walsh Real Prop. 5th Ed. 72-73.*" (Emphasis added)

The fact that Matthew Laughlin was John Cassidy's attorney (and wrote his will) reflects psychological and significant aspects of the Laughlin vs. Page interpretation.

Whereas a codicil was written to Mr. Cassidy's will on November 11, 1911, it is noteworthy that by coincidence Matthew Laughlin himself was involved as a trustee in this case which the Maine law court interpreted as being the law of Maine on July 18, 1911, approximately (4) months before the Cassidy codicil reconfirmed the original will.

The ruling in Laughlin vs. Page, supra is pertinent to the Cassidy will and no doubt Mr. Cassidy accepted the court's thinking in this case as being the *law* in Maine at that time. The same law has been constant and continuing until the decision in the instant case.

Please note Page No. 16 in the record (quote the Cassidy will):

> "And upon the deecease of each of my said five children, without leaving any lineal descendants living at the time of the death of each of them," etc.—Here the testator identified lineal descendants as being the *issue* of his children.

NOTE—"Issue is synonamous with lineal descendants" *Morse* vs. *Hayden 82 Me. 230.*" Lineal descendants must be the heirs of a deceased person, no one can be the heir of a living person.

PLEASE NOTE—"No rules of civil or the common law, further than as they are adopted by statute can afford them any aid. The statute fixes its own rules and by these rules we must be governed. And the provisions of statute in force at the time of the decease of a person intestate must determine the rights of the heirs to the distribution or descent of his estate as also who are entitled to inherit as heirs of a deceased person. *Messer* vs. *Jones 88 Me. 353.*

The Maine law court has no constitutional right to create two non-factual assumptions, and then utilize both a ~~and~~ statute, as the basis for interpreting a statute, the result of which destroys the vital meaning of a man's will.

Namely 1—to assume that he died in the year 1961 instead of when he actually died March 25, 1918.

2—To assume, (quote the court) "as though"—he died without children—(43) years after his children's actual deaths.

3—and then applied these negative facts to the Maine intestate descent statute as the basis for interpretating the "proportions" of the estate due the heirs.

Respectfully submitted,

EDYTHE L. DYER
Petitioner Pro Se
61 State Street, Bangor, Me.
November 26, 1962